

SUMMARY OF EXAMINER INTERVIEW

Applicants would like to thank the Examiner for the telephonic interview conducted February 18, 2010. No demonstrations were shown nor exhibits displayed. Claims 1 and 2 were discussed. Applicants argued that the features of claim 2 of application to an airplane or a vertical flight profile were not rendered obvious by the previously cited references. The Examiner agreed that if the features of claim 2 were amended to independent claim 1, the claim would be in condition for allowance.

REMARKS

The Office Action received November 23, 2009, has been received and reviewed. Claims 1 and 3 have been amended. Claim 2 has been cancelled. As the amendment merely adopts examiner suggestion or places the claim in condition for allowance, Applicants respectfully submit that the amendment is within the purview of MPEP § 714.13 as a proper after final amendment. Reconsideration and allowance in view of the foregoing amendments and the following remarks is respectfully requested.

Claims 1-4 and 6-10 were rejected under 35 U.S.C. § 103(a) over Zoraster (U.S. 5,839,090) in view of Mitchell ("An Algorithmic Approach to Some Problems in Terrain Navigation," hereinafter "Mitchell") and Tran (U.S. 5,892,462). Claims 5 and 11 were rejected over Zoraster, Mitchell, and Tran in further view of Margolin (U.S. 6,177,943). The rejection of claim 2 is respectfully considered moot, as the claim has been cancelled. The rejection of the remaining pending claims is respectfully traversed based on the following remarks.

In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. MPEP § 2141.02(I) citing *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983). Applicants respectfully submit that the claimed invention as a whole would not be obvious when determining the differences between amended independent claim 1 and the cited references of Zoraster, Mitchell and Tran.

As amended, independent claim 1 recites that the method "is applied to an aircraft having a vertical flight profile to be complied with determining the evolution of its instantaneous altitude, wherein the lengths of the paths catalogued during the application of the chamfer mask to a goal point, are associated with the forecastable values of the instantaneous altitudes that the aircraft would have by reaching the goal point via these paths while complying with the vertical flight profile imposed, and

wherein the catalogued paths associated with forecastable values of altitude that are less than or equal to the goal point altitude given by the terrain elevation database and increased by a protection margin are excluded from the search for the shortest path" amongst its features. Applicants respectfully submit that Zoraster, Mitchell, or Tran, alone or in combination, are not directed to vertical profiles in a distance propagation computation. Rather, the cited reference, specifically Mitchell, is concerned with terrain/land-based navigation. Therefore, it is respectfully submitted that amended independent claim 1 is not taught, suggested, or rendered obvious by the cited references and claim 1 is allowable.

Claim 3 has been amended to provide for proper dependency on claim 1. Claims 4-11 are allowable at least based on their dependency upon an allowable claim. Thus, Applicants respectfully submit that claims 1 and 3-11 are in condition for allowance and a Notice to that effect is earnestly solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,
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Date: February 23, 2010
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